

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
Charlottesville Division**

ELIZABETH SINES, SETH WISPELWEY,  
MARISSA BLAIR, TYLER MAGILL, APRIL  
MUNIZ, HANNAH PEARCE, MARCUS  
MARTIN, JOHN DOE, JANE DOE 1, JANE  
DOE 2, and JANE DOE 3,

Plaintiffs,

v.

JASON KESSLER, RICHARD SPENCER,  
CHRISTOPHER CANTWELL, JAMES  
ALEX FIELDS, JR., VANGUARD  
AMERICA, ANDREW ANGLIN,  
MOONBASE HOLDINGS, LLC, ROBERT  
“AZZMADOR” RAY, NATHAN DAMIGO,  
ELLIOT KLINE a/k/a/ ELI MOSELY,  
IDENTITY EVROPA, MATTHEW  
HEIMBACH, MATTHEW PARROTT a/k/a  
DAVID MATTHEW PARROTT,  
TRADITIONALIST WORKER PARTY,  
MICHAEL HILL, MICHAEL TUBBS,  
LEAGUE OF THE SOUTH, JEFF SCHOEP,  
NATIONAL SOCIALIST MOVEMENT,  
NATIONALIST FRONT, AUGUSTUS SOL  
INVICTUS, FRATERNAL ORDER OF THE  
ALT-KNIGHTS, MICHAEL “ENOCK”  
PEINOVICH, LOYAL WHITE KNIGHTS OF  
THE KU KLUX KLAN, and EAST COAST  
KNIGHTS OF THE KU KLUX KLAN a/k/a  
EAST COAST KNIGHTS OF THE TRUE  
INVISIBLE EMPIRE,

Defendants.

**Civil Action No. 3:17-cv-00072-NKM**

**JOINT REPORT OF THE PARTIES PURSUANT TO RULE 26(f)**

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, a telephone conference was held on November 29, 2017 by and between counsel for Plaintiffs and counsel for Defendants Michael Hill, Michael Tubbs, League of the South, James Fields, Matthew Parrott,

Nationalist Front, Christopher Cantwell, National Socialist Movement, Jeff Schoep, Elliot Kline (a/k/a Eli Mosely), Jason Kessler, Traditionalist Working Party, Nathan Damigo, Vanguard America, Robert Ray, Matthew Heimbach, and Identity Evropa. Defendant Michael Peinovich participated by email. Defendant Loyal White Knights of the KKK has been served but has not entered an appearance, and so did not participate in the conference. Remaining Defendants Andrew Anglin, Moonbase Holdings, LLC, Richard Spencer, East Coast Knights of the KKK, Augustus Sol Invictus, and Fraternal Order of the Alt-Knights have not yet been served. The following is the Rule 26(f) schedule and report, which the parties jointly prepared.

1. Pre-Discovery Disclosure Orders: The parties discussed extending the deadline for Rule 26(a)(1) initial disclosures but were unable to come to agreement as to how long to extend. The Parties' positions are as follows.

a. Plaintiffs' Position – Plaintiffs propose that disclosures be submitted by December 20, 2017, or seven (7) days following the entry by the Court of a confidentiality order, whichever is later. The parties will file a proposed confidentiality order, or competing proposed orders, by December 11, 2017. This provides parties with a one week extension to the deadline provided for in this Court's pre-trial order. Such an extension would provide parties with nearly two months since the filing of the complaint to identify the information required to be disclosed by Rule 26(a)(1). At this juncture, Plaintiffs believe there is no reason to halt discovery, and Defendants have identified no reason why they will be unable to provide the necessary disclosures within the time provided for by Plaintiffs' proposal. Moreover, should Defendants come into possession of additional information called for by Rule 26, they can supplement their

disclosures. That additional information may eventually be discovered is no reason not to begin discovery in such a significant litigation.

b. Defendants' Position –

- i. Defendants Christopher Cantwell, Nathan Damigo, Matthew Heimbach, Identity Europa, Jason Kessler, Elliot Kline, National Socialist Movement, Nationalist Front, Matthew Parrott, Jeff Schoep, Traditionalist Worker Party, Vanguard America, Robert Ray, James Fields, and Michael Peinovich agree to an initial disclosure date of December 20, 2017 and to a proposed confidentiality order date of December 11, 2017.
- ii. Defendants League of the South, Michael Hill and Michael Tubbs object to the December 20 date for initial disclosures because of the volume of potential discovery. Also, defendants League of the South, Michael Hill, and Michael Tubbs have filed a Rule 12(b)(6) motion so they are unaware of what defenses they may or may not assert. Delaying initial disclosures until January 15, 2018 would save the parties' resources and save the need for significant supplemental disclosures. Defendants League of the South, Michael Hill and Michael Tubbs further request a stay on depositions and interrogatories until the court has ruled on their Rule 12(b)(6) motion.

2. Discovery Plan/Case Schedule: The parties have agreed to confer upon a trial date within six months of the Rule 26(f) conference. Additionally, the parties have agreed upon the following discovery schedule:

- a. Close of Fact Discovery: 150 Days Prior to trial
- b. Opening Expert Reports: 120 Days Prior to trial

- c. Rebuttal Expert Reports: 90 Days Prior to trial
- d. Complete Expert Discovery: 75 Days prior to trial

All other deadlines in the Court's pre-trial order would remain in effect. At this time, the parties have not agreed upon any changes to the limitations on discovery imposed under the Federal Rules of Civil Procedure or the Western District of Virginia Local Rules but have agreed to meet and confer as discovery proceeds to determine if any changes will need to be made. The parties further have the following positions concerning the depositions of certain parties:

- a. Defendants' Position – Defendants propose that any and all depositions of Defendants facing criminal charges related to the incidents sued upon shall occur after the criminal case has been tried or a plea agreement has been accepted by the Court as to that Defendant.
  - b. Plaintiffs' Position – Plaintiffs propose that all depositions for all defendants proceed pursuant to the schedule set forth in this paragraph.
- 3. Issues of Confidentiality: The parties intend to meet and confer concerning a confidentiality order to be entered by the Court, which will include provisions for the handling of privileged or otherwise protected information. The parties will submit a proposed confidentiality order, or competing proposed orders, by December 11.
  - 4. Electronically Stored Information ("ESI") Discovery: As this case will involve the collection and exchange of a large volume of electronic communications, the parties intend to meet and confer to establish a robust ESI protocol to be entered by the Court.
  - 5. Magistrate Jurisdiction: The parties do not unanimously consent to the jurisdiction of and entry of judgment by the United States Magistrate Judge pursuant to 28 U.S.C. 636(c).

6. Prospect of Settlement: The parties have discussed settlement and do not believe that this case is in a posture where it can be settled. Parties will continue to consider settlement as the case progresses.
7. Mediation: The parties do not believe that mediation would be productive at this time.
8. Other Necessary Orders the Court Should Issue Under Rule 26(c) or under Rule 16(b) and (c): Counsel have not identified any such orders at this time.

Dated: December 6, 2017

SEEN AND AGREED:

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